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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,400	02/23/2004	Regina Kay Crites	1059.2.1	1830

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EXAMINER	
ALI, MOHAMMAD M	
ART UNIT	**PAPER NUMBER**
3744	

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/784,400	CRITES ET AL.	
	Examiner	Art Unit	
	Mohammad Ali	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) *16-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15 and 21-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *02/23/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-15 and 21-24, drawn to a mixing paddle, classified in class 62, subclass 342.

II. Claims 16-20, drawn to a method of making a mixing paddle, classified in class 366, subclass 4.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus does not deal with process of making a mixing paddle with first mixing paddle half and second mixing paddle half and method of using a mixing paddle claim 21 also does not deal with method for making a mixing paddle wit first mixing paddle half and second mixing paddle half.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

During a telephone conversation with David J. McKenzie on 09/27/05 a provisional election was made with traverse to prosecute the invention of I, claims 1-15 and 21-24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 16-20 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3-6, 8, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horn et al., (6,105,490). Horn et al., disclose an apparatus comprising a mixing paddle 10 for cooling a mixture; a shaft 38 connect to a mixer; a blade 42 connected to the shaft 38, the blade 42 comprising a hollow cavity; the hollow cavity extends into the shaft 38. Horn et al., disclose the invention substantially as claimed as stated above. See Fig.1. However. Horn et al. do not disclose sealing of refrigerant within the hollow cavity of the blade rather Horn et al., disclose sealing the refrigerant within the cavity of a refrigerant circulation system including the cavity of the blade 42 and shaft 38. As per claim 3 the invention needs the cavity extends to the shaft. Therefore, it is obvious that the cavity can include the whole circulation system of the refrigerant. Hence, Horn et al., obviously reads the above claims.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horn et al., in view of Spector (4,885,917). Horn et al., disclose the invention substantially as claimed as stated above. However, Horn et al., do not disclose universal adapter. Spector teaches the use of a universal coupler Dy in mixing appliance 10 for the purpose of interchanging coupler for various types of power base

unit drive couplers. See 3, column 4, lines 58-63. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Horn et al., in view of Spector such that a universal coupler could be provided in order to interchange the coupling with various power base unit.

Claims 7, 13,14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horn et al., in view of Kuraoka et al., (4,462,215). Horn et al., disclose the invention substantially as claimed as stated above. However, Horn et al., do not disclose monitoring device. Kuraoka et al., teaches the use of a sensor 24 in mixing tank 10 for the purpose of monitoring the condition of refrigerant 12. See 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Horn et al., in view of Kuraoka et al., such that a sensor could be provided in order to monitor the condition of the refrigerant. Regarding window for claim 15, a sight glass for visual observation of refrigerant in refrigerant system is a known feature.

Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horn et al., in view of Bethuy et al., (6,449,966). Horn et al., disclose the invention substantially as claimed as stated above. However, Horn et al., do not disclose a temperature sensor. Bethuy et al., teaches the use of a temperature sensor 72 in mixing tank 50 for the purpose of monitoring the condition of mixer. See 6. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

made to modify the apparatus of Horn et al., in view of Bethuy et al., such that a temperature sensor could be provided in order to monitor the condition of the mixer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Ali whose telephone number is (571) 272-4806. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohammad M. Ali
September 27, 2005